

REMARKS

This application has been reviewed in light of the Office Action dated March 31, 2005. Claims 1-26 are now pending, with Claims 1, 4, and 7 in independent form. Claims 14-26 have been added by this Amendment to provide Applicant with a more complete scope of protection. Support for newly added Claims 14-26 can be found in the specification as published (U.S. Patent Publication No. 2005/0091105) at least at paragraphs [0018] - [0022], [0025], [0028], and [0030].

Claims 1-13 have been amended for purposes of clarification only, and not in response to any Examiner objection or rejection based on patentability. Applicant notes that the changes to Claims 1-13 affect matters of form only, and do not, in any way, narrow the scope of any of these claims. Favorable reconsideration is respectfully requested.

In view of the Examiner's objection to the title of the present application, the Applicant amends the title to the following: "Advertising System and Method Comprising Display Rack And Visual Display". Applicant submits that the newly amended title is clearly indicative of the invention to which the claims are directed.

THE CLAIM OBJECTIONS

In response to the Examiner's observation that the phrase "business card" is a nominal recitation of no patentable distinction, independent Claims 1, 4, 7 are amended to delete the term "business card" as a modifier of the term "display rack."

With regard to Claim 4, the Office Action suggests that the limitation "displayed on said rack a plurality of hard copy promotional items" should be rephrased for

better clarity. (Office Action, page 2, last paragraph). Because Applicant does not believe that the suggested change impacts the scope of the claim, Claim 4 is amended in accordance with the Examiner's suggestion.

In the Office Action, the Examiner observes that Claim 7 is directed to a computer program product and suggests an alternative recitation of the claim. Although the Applicant appreciates the Examiner's suggestion, Applicant believes that it is inapplicable, specifically because Claim 7 is directed to an advertising system, and not a computer program product.

Based upon the above remarks and claim amendments, Applicant respectfully requests the withdrawal of all claim objections.

THE 35 U.S.C. § 102 AND § 103 REJECTIONS

Claims 1-9 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,674,041 (Lemon et al.). It is well-established that for a reference to defeat a claim's novelty under 35 U.S.C. § 102 (*i.e.*, anticipate the claim), it must disclose each and every element of the claim. Advance Display Sys. v. Kent State Univ., 212 F.3d 1272 (Fed. Cir. 2000). Applicant respectfully request that this rejection be withdrawn because Lemon et al. fails to teach each and every claim limitation.

In the present application, the claimed invention relates to a display rack for displaying a plurality of hard-copy promotional items. A visual display, located in visual proximity to the display rack, is configured to display electronic advertising media (e.g.,

images, video, or both) pertaining to hard-copy promotional items displayed on the accompanying display rack.

The Lemon et al. patent is understood to relate to monitoring and controlling the selection and distribution of product coupons from a plurality of remote terminals located at a point of sale, such as a retail grocery store. (See Abstract; column 4, lines 65-67). These remote terminals are programmed to control the number and type of coupons that may be dispensed. (See column 4, lines 52-56). Coupons available for dispensing are displayed to a customer via a display, where the customer may select which coupon(s) he or she wishes to have printed out from the remote terminal. (See col. 5, lines 59-61 and col. 6, lines 15-20).

The Office Action equates the products placed on the one or more store shelves described in Lemon et al. to the hard-copy promotional items displayed in the display rack disclosed in the present application. Further, the Office Action likens a store shelf which displays the promotional products in Lemon et al. to the display rack which displays hard-copy promotional items (e.g., business cards) according to the present invention. (Office Action, page 8, bolded paragraph). Specifically, the Office Action indicates:

“the displayed coupons correspond to promotional products currently available or displayed on a store shelf (display rack) where the kiosk is located (in visual proximity to the shelf or display rack) and used to distribute discount coupons and/or promotion information or advertising information related to the promotional items placed on or more shelves (display racks) within the store.”

(Office Action, page 8).

However, Lemon et al. fails to teach or suggest displaying hard-copy promotional items on a display rack. More specifically, Applicant submits that a product on a store shelf does not equate to a hard-copy promotional item such as a business card. Furthermore, absent from Lemon et al. is any teaching or suggestion that hard-copy promotional items are displayed on the store shelves. Accordingly, because Lemon et al. fails to teach or suggest the “displaying on the display rack a plurality of hard-copy promotional items” or the display of “electronic advertising media pertaining at least to an advertiser associated with a hard-copy promotional item displayed on the display rack,” the § 102(b) rejection of Claims 1-9 should be withdrawn.


Claims 10-13 stand rejected under 35 U.S.C. § 103(a), as obvious in view of Lemon et al. As provided above, Lemon et al. fails to teach or suggest each and every element set forth in independent Claims 1, 4, and 7, from which Claims 10-13 depend. Furthermore, the Office Action is devoid of any showing of a teaching or suggestion of the elements of the claimed invention which are absent from Lemon et al. Accordingly, for at least the reasons set forth above, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection of dependent Claims 10-13.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and an early allowance of the present application.

Applicant's undersigned attorney may be reached by telephone at (973) 597-2500.

All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

A handwritten signature in cursive script, reading "Daniel D. Sierchio". The signature is written in dark ink and is positioned above a horizontal line.

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